



**MEETING AGENDA
CITY OF GRASS VALLEY PLANNING COMMISSION**

Chairman, Greg Bulanti

Vice Chair, James Arbaugh

Liz Coots

Tom Ivy

Terry McAteer

**TUESDAY, October 20, 2020
7:00 P.M.**

**IN THE COUNCIL CHAMBERS AT CITY HALL
125 EAST MAIN STREET, LOWER LEVEL
GRASS VALLEY, CALIFORNIA**

Telephone: (530) 274-4330 - Fax: (530) 274-4399

E-Mail: info@cityofgrassvalley.com Web Site: www.cityofgrassvalley.com

In response to Governor Newsom's Executive Order N-29-20 and Resolution 2020-09 Declaring the Existence of a Local Emergency related to the COVID-19 pandemic, public participation in the City of Grass Valley Planning Commission and other public meetings shall be electronic only, and without a physical location for public participation, until further notice in compliance with California state guidelines on social distancing. The Planning Commission welcomes you to attend the meetings electronically, which are scheduled at 7:00 p.m. on the 3rd Tuesdays of each month. Your interest is encouraged and appreciated. This meeting is being broadcast "live" on Comcast Channel 17 by Nevada County Media and on the internet at www.cityofgrassvalley.com/agendas-minutes-meetings, or on the City of Grass Valley Youtube channel at <https://www.youtube.com/channel/UCdAaL-uwDN8iTz8bl7SCuPQ>. Indexed archives of meetings are available via this link as well. Members of the public are encouraged to submit public comments via voicemail at (530) 274-4390 and email to public@cityofgrassvalley.com. Comments will be reviewed and distributed before the meeting if received by 5 p.m. Comments received after that will be addressed during the item and/or at the end of the meeting. The Planning Commission will have the option to modify their action on items based on comments received. Action may be taken on any agenda item. Agenda materials, staff reports, and background information related to regular agenda items are available on the City of Grass Valley website: www.cityofgrassvalley.com. Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet will be made available on the City of Grass Valley website at www.cityofgrassvalley.com subject to City staff's ability to post the documents before the meeting. If you do not have the means to participate in meetings electronically, contact the City at (530) 274-4390 and staff will be happy to identify alternative means for you to participate.

- 1.0 CALL TO ORDER**
- 2.0 PLEDGE OF ALLEGIANCE**
- 3.0 ROLL CALL**
- 4.0 APPROVAL OF AGENDA**
- 5.0 APPROVAL OF ACTION MINUTES – September 15, 2020**

6.0 PUBLIC COMMENT – See information above and the following on public comment procedure: Members of the public are encouraged to submit public comments via voicemail at (530) 274-4390 and email to public@cityofgrassvalley.com. Comments will be reviewed and distributed before the meeting if received by 5 p.m. Comments received after that will be addressed during the item and/or at the end of the meeting. The Planning Commission will have the option to modify their action on items based on comments received. Action may be taken on any agenda item.

7.0 PUBLIC HEARING ITEMS

7.1 Use Permit Amendment (16PLN-47) for David Krikorian’s 1849 brewpub (microbrewery) and wine tasting room, including outdoor beer garden located at 468 Sutton Way in the Central Business (C-2) Zone. The amendment is to allow an extension in the hours of operation from the current 3:30 p.m. to 9:00 p.m. M-F and 3:30 p.m. to 10:00 p.m. on Saturday and Sunday to 11:00 a.m. to 2 a.m. seven days per week. Environmental Determination: Categorical Exemption.

7.2 Amendments to the Grass Valley Municipal Code (20PLN-30) to: 1) repeal and replace Chapter 5.60 related to the allowance and regulation of cannabis activities; 2) repeal Section 17.20.035 related to the prohibition of medical marijuana cooperatives; and, 3) add as a permitted use “Cannabis businesses” to Table 2-10 of Section 17.24.030. These amendments propose regulations of certain cannabis businesses in the C-3 and M-1 zoning districts within the City of Grass Valley. Environmental Determination: Categorical Exemption

8.0 OTHER BUSINESS

8.1 Review of City Council Items

8.2 Future Meetings, Hearings and Study Sessions

9.0 BRIEF ANNOUNCEMENTS / REPORTS BY COMMISSION MEMBERS

10.0 ADJOURNMENT: Adjourn to the next regularly scheduled meeting on November 17, 2020.

This agenda is hereby certified to have been posted at City Hall as follows:

10.15.2020 9:00 a.m. by: 
Date Time Clerk to Planning Commission

Approved for posting

 10/13/20
Thomas Last Date
Community Development Director

**CITY OF GRASS VALLEY
PLANNING COMMISSION**

ACTION MINUTES

September 15, 2020

1.0 CALL TO ORDER

Chair Bulanti called the meeting to order at 7:00 p.m. on September 15th, 2020

2.0 PLEDGE OF ALLEGIANCE

The pledge of allegiance was led by Vice Chairman Arbaugh.

3.0 ROLL CALL

Commissioner Coots	Present	<u> X </u>
Commissioner Ivy	Present	<u> </u>
Commissioner McAteer	Present	<u> X </u>
Vice Chair Arbaugh	Present	<u> X </u>
Chairman Bulanti	Present	<u> X </u>

Members present were Chair Greg Bulanti, Vice Chair James Arbaugh, Commissioners Coots, and McAteer. Commissioner Ivy was absent. Planning Staff present included Principal Planner Lance Lowe.

APPROVAL OF AGENDA

4.0 Motion by: Commissioner McAteer

Seconded by: Commissioner Coots

Roll Call Vote: 4-0-0

APPROVAL OF ACTION MINUTES – July 21, 2020

5.0 Motion by: Vice Chairman Arbaugh

Seconded by: Commissioner McAteer

Roll Call Vote: 4-0-0

PUBLIC COMMENT

6.0 Chair Bulanti opened Public Comment. Chair Bulanti closed Public Comment as no one submitted any public comments.

PUBLIC HEARING

7.0

Development Review and Use Permit (20PLN-22) for the construction of a ±900 square foot Dutch Bros. building with drive-through and related site improvements in the Central Business (C-2) Zone. The project is located at 2094 Nevada City Highway (APN: 035-280-022). Environmental Determination: Categorical Exemptions.

7.1

Principal Planner, Lance Lowe presented this item to the Commission. Rob Wood, Jeremy Mael, Kris Johnson and Beth Wilson, attended as the applicants, and all gave an overview of the property layout and details the of project. Building design, parking, and drive-through specifications were discussed. Chair Bulanti opened the public hearing on this item. There were no public comments. Chair Bulanti closed the public hearing.

Motion by: Commissioner McAteer

Seconded by: Commissioner Coots

Roll Call Vote: 4-0-0

8.0 OTHER BUSINESS

8.1 Review of City Council Items

Principal Planner, Lance Lowe informed the Commission that the City Council has not taken any action lately on any planning commission items.

8.2 Future Meetings, Hearings and Study Sessions

Principal Planner, Lance Lowe announced that there will be a Planning Commission meeting next month on October 20, 2020.

9.0 BRIEF ANNOUNCEMENTS / REPORTS BY COMMISSION MEMBERS

Commissioner McAteer commented on the lawsuit that is occurring on the Dorsey Drive Market Place project. There were no other reports or announcements by Commission Members.

10.0 ADJOURNMENT:

The meeting was adjourned by Chair Bulanti at 7:41 pm to the next regular meeting scheduled for October 20, 2020.

Respectfully Submitted,



Taylor Day, Community Services Analyst

Approved this _____ day of _____, 2020

Greg Bulanti, Chair



**PLANNING COMMISSION
STAFF REPORT
October 20, 2020**

Agenda Item: 7.1
Prepared by: Lance E. Lowe, AICP, Principal Planner *LEL*
Reviewed by: Thomas Last, Community Development Director *TJL*

DATA SUMMARY

Application Number: 16PLN-47
Subject: 1849 Brewery Use Permit Amendment to allow an extension in the hours of operation from 11:00 a.m. to 2:00 a.m. seven days per week.
Location/ APN: 468 Sutton Way/035-480-003
Applicant: David Krikorian, dba 1849 Brewery
Owner: Nevada County Publishing Co.
Zoning/General Plan: Central Business (C-2) District/Commercial
Environmental Status: Categorical Exemption

RECOMMENDATION:

Staff recommends that the Planning Commission continue the Use Permit Amendment; add additional operating Conditions of Approval; and, Schedule a Revocation Hearing or Use Permit Amendment, which includes the following actions:

1. Determine the project Categorical Exempt as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines;
2. Adopt Findings of Fact for Denial of the Use Permit Amendment at this time as presented in the Staff Report;
3. Deny the Use Permit Amendment at this time as outlined in the Staff Report;
4. Adopt additional operating Conditions of Approval for 1849 Brewery as presented in the Staff Report; and,
5. Direct staff to schedule a Revocation Hearing or reconsider the proposed Use Permit Amendment at its February 16, 2021, meeting. The action before the Planning Commission will be based upon the applicant's compliance with Conditions of Approval and conduct of business operations over the next several months.

BACKGROUND:

On February 21, 2017, the Planning Commission approved a Use Permit to operate a brewpub at 468 Sutton Way within the C-2 Zone. Tenant Improvements have been

completed for the ±5,387 square feet building including outdoor improvements consisting of a ±1,500 square foot exterior beer garden.

PROJECT DESCRIPTION:

The applicant is requesting a Use Permit Amendment (16PLN-47) for the 1849 Brewpub (microbrewery) in the C-2 Zone.

The amendment is to allow an extension in the hours of operation from the current 3:30 p.m. to 9:00 p.m. M-F and 3:30 p.m. to 10:00 p.m. on Saturday and Sunday to 11:00 a.m. to 2 a.m. seven days per week (**Attachment 3 – Applicant’s Amendment Request**).

SITE DESCRIPTION AND ENVIRONMENTAL SETTING:

The subject property is fully developed with an ±19,000 square foot building, 54 parking spaces and landscaping. Commercial uses are to the south, east, and north, and a vacant parcel is located to the west. Residential uses in the vicinity include Brunswick Village Assisted Living, Nevada Woods Apartments, Olympia Garden Apartments and Olympia Glade Mobile Home Park located ±500 feet to the south and southwest.

ENVIRONMENTAL DETERMINATION:

The project qualifies for Class 1 Categorical Exemption. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

GENERAL PLAN AND ZONING:

General Plan: The Grass Valley 2020 General Plan identifies the site as Commercial (COM). The Commercial General Plan designation includes all types of commercial retail and service establishments on the highway and along major streets.

Zoning: The Central Business (C-2) Zone District designation is applied to areas of the Downtown not covered by the TC (Town Core) Zone. The C-2 Zone implements and is consistent with the Commercial land use designation of the General Plan. In the C-2 Zone, bars and taverns, which brew pubs and breweries are defined as, are listed as uses permitted subject to approval of a Use Permit.

Section 17.72.060 of the Development Code requires the Planning Commission to make specific findings before it acts on a Use Permit Amendment.

ANALYSIS:

The City of Grass Valley strives to be proactive in facilitating business needs, such as an increase in hours of operation, outdoor seating, etc. provided such operations are conducted in accordance with City standards and have negligible impacts on adjoining uses.

1849 Brewery has operated though 2019 with little incident. However, in 2020, Grass Valley Police Department (GVPD) received an inordinate amount of calls for service relating to noise, disturbing the peace and other nuisance complaints. Specifically, from

September 9, 2019 through September 9, 2020, GVPD received 73 calls for service with 15 safety violations being noted. A summary list of calls for service includes:

- August 16, 2019, at 10:06 p.m., officers were dispatched regarding a physical altercation. No injuries were noted, and no charges were filed;
- November 10, 2019, at 5:07 p.m., report of loud music playing all day;
- April 16, 2020, at 6:17 p.m. officers were dispatched regarding a male subject that had overdosed on heroin and was not responsive. During the investigation, officers discovered that the owner had privately opened the business during COVID 19 restrictions;
- May 20, 2020, at 11:52 p.m. officers were dispatched regarding a physical altercation. An arrest was made of a male subject with a blood alcohol concentration three times higher than the legal limit;
- May 24, 2020, 1:46 p.m., officers were dispatched regarding a DUI. An arrest was made shortly thereafter;
- May 30, 2020 1.36 p.m., officers were dispatched regarding a physical altercation. One subject had been assaulted; however, no injuries were noted, and no charges were filed;
- May 31, 2020, 12:09 a.m., officers were dispatched regarding a physical altercation of several subjects. Two male subjects were cited and released;
- May 31, 2020, 1:16 a.m., officers were dispatched regarding a physical altercation between 5 to 10 persons.
- June 2, 2020, at 2:13 a.m., an intoxicated male was urinating in the parking lot in front of female employees;
- June 5, 2020, at 11:22 p.m., officers were dispatched regarding a physical altercation between 15 to 20 persons;
- June 8, 2020, at 2:13 a.m., officers were dispatched regarding drunk in public. A male subject was subsequently arrested;
- June 9, 2020, at 11:28 p.m., officers were dispatched regarding DUI hit and run. No arrests made;
- June 25, 2020, at 11:55 p.m., officers were dispatched regarding physical altercation of up to 15 persons. Those involved had minor lacerations or blunt trauma injuries. No charges were filed;
- July 31, 2020, at 10:59 p.m., officers were dispatched regarding physical altercation. One arrest was made of a male subject;
- August 6, 2020, at 10:10 p.m., officers were dispatched regarding loud music;
- August 7, 2020, 10:10 p.m., officers were dispatched regarding three reports of loud music. At 12:49 a.m. officers were again dispatched regarding loud music;
- August 16, 2020, at 1:52 a.m., officers were dispatched regarding a physical altercation. One male subject was arrested;
- September 17, 2020, at 12:24 a.m., officers were dispatched regarding a physical altercation. One subject was arrested for DUI and possession of narcotics;
- September 17, 2020, at 11:28 p.m., officers were dispatched regarding loud music;
- September 19, 2020, at 12:53 a.m., officers were dispatched regarding an intoxicated female claiming two subjects had tried to force her into a vehicle;
- September 19, 2020, at 11:05 a.m., officers were dispatched regarding a female claiming to have been drugged;
- September 19, 2020, at 11:23 p.m. officers were dispatched regarding a physical altercation. One subject was arrested;
- September 26, 2020, at 12:19 a.m, officers were dispatched regarding loud music and approximately 60 patrons in the outside area.

As documented, the business has had a typical amount of calls for service for the type of use through 2019. Serious problems did not become apparent until this year.

Staff acknowledges that COVID 19 restrictions have taken its toll on businesses, as well as residents. However, in comparison with other similar businesses (i.e. breweries) during this same time period 6 and 7 calls for service were reported with no safety violations noted.

Additionally, GVPD has also reported a lack of cooperation from the ownership when responding, including the yelling profanities at GVPD Officers and patrons placing bumper stickers on GVPD vehicles that stated, "ASSASSINATION 2020" which had bullet holes through a blue line.

Community Development staff met with the owners in early September to discuss hours of operation and non-compliance with Use Permit Conditions of Approval.

GVPD also met with the owners on September 11, 2020, to discuss these issues. During the meeting the owners appeared to understand the City's concern and were in the process of implementing several processes to resolve past issues. To date, GVPD has not observed a reduction of the amount of calls for service.

Findings for approval of the Use Permit Amendment require the Planning Commission to determine that the use will operate in conformance with City standards and not have negative impacts on adjoining uses or City services. The Planning Commission is required to conclude that the extended hours of operation for both indoor and outdoor seating will not impact adjoining uses including residential uses located ±500 feet to the south and southwest.

Based upon the record, it would be difficult for the Planning Commission to conclude that extending the hours of operation, particularly outdoors, would not continue to have adverse impacts on adjoining properties not to mention City GVPD services.

Accordingly, staff recommends that the Planning Commission deny the request for extended hours of operation at this time. Staff also recommends that additional Conditions of Approval be imposed to ensure that business operations improve.

Condition of Approval No. 2 requires the amended hours of operation to be from 11:00 a.m. to 9:00 p.m. Monday - Thursday and Sunday. Hours of operation on Friday and Saturday shall be from and 11:00 a.m. to 10:00 p.m. Moreover, sound amplifying equipment may only be operated until 8:00 p.m. each day except Sundays and legal holidays, where sound amplifying equipment is prohibited per City Municipal Code.

Additional operating restrictions have been imposed in Condition of Approval No 3 requiring upon close of business: 1) music and lights shall be turned off; 2) all patrons shall leave the building and shall not congregate in the parking lot or elsewhere on the premises; and, 3) alcohol consumption shall cease.

Condition of Approval No. 5 notes that upon satisfactory compliance with City standards and conditions, as determined by the Police Chief and Community Development Director, the applicant may request the Planning Commission further consider a subsequent Use Permit Amendment hours of operation request in February 2021.

Should 1849 operate without incident, in compliance with these additional operating conditions, staff could then recommend that the Planning Commission reconsider an extended hours of operation request.

Conversely, should 1849 Brewery continue to not comply with the City's standards and conditions, staff recommends the Planning Commission consider revoking the Use Permit. A revocation hearing would need to take place at a noticed public hearing in accordance with Chapter 17.98.030 of the City's Development Code as outlined in Condition of Approval No. 6.

Lastly, Condition of Approval No. 7 specifies that the applicant shall comply with the State Department of Alcohol Beverage Control permitting requirements.

FINDINGS:

The Planning Commission is required to make the following findings in the affirmative to approve the Use Permit Amendment (16PLN-47):

1. Determine the project Categorical Exempt as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines;
2. The Planning Commission has independently reviewed, analyzed and considered the Categorical Exemption prior to making its decision on the project. The Categorical Exemption reflects the independent judgement of the City of Grass Valley, as lead agency;
3. The proposed use has not operated consistent with the General Plan policies, goals and objectives relating to land use compatibility and impacts to City services;
4. The proposed use is allowed within the applicable zone, but has not complied with all other applicable provisions of the Municipal and Development Codes;
5. The design, location, size, and operating characteristics of the proposed activity are not compatible with the existing and future land uses in the vicinity; and
6. As conditioned, the site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment and disposal, etc.), to ensure that the density, intensity, and type of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

CONDITIONS OF APPROVAL:

1. The use shall operate in accordance with approved Use Permit 16PLN-47 as amended. The Planning Director may approve minor changes as determined appropriate. The Planning Commission must approve all changes deemed major in nature.
2. The hours of operation shall be from 11:00 a.m. to 9:00 p.m. Monday -Thursday and Sunday. Hours of operation on Friday and Saturday shall be from and 11:00 a.m. to 10:00 p.m.
3. Upon close of business: 1) music and lights shall be turned off; 2) all patrons shall leave the building and shall not congregate in the parking lot or elsewhere on the premises; and, 3) alcohol consumption shall cease.
4. Any outdoor sound amplifying equipment shall comply with G.V.M.C sections 8.28.130 and 8.28.135.
5. On February 16, 2021, the applicant may request further consideration of a Use Permit Amendment application upon satisfactory compliance with City standards and adopted Conditions of Approval. Said compliance shall be to the satisfaction of the GVPD and Community Development Director.
6. If the business continues to receive calls for service or is found to be in non-compliance with the Conditions of Approval as documented by the GVPD and confirmed by the Community Development Director, the applicant shall be subject to further Modification or Revocation of their Use Permit in accordance with Section 19.98.030 of the City's Development Code.
7. The applicant shall comply with State Department of Alcohol Beverage Control permitting requirements.
8. The applicant agrees to defend, indemnify, and hold harmless the City in any action or proceeding brought against the City to void or annul this discretionary land use approval.

ATTACHMENTS:

Attachment 1 – Location Map

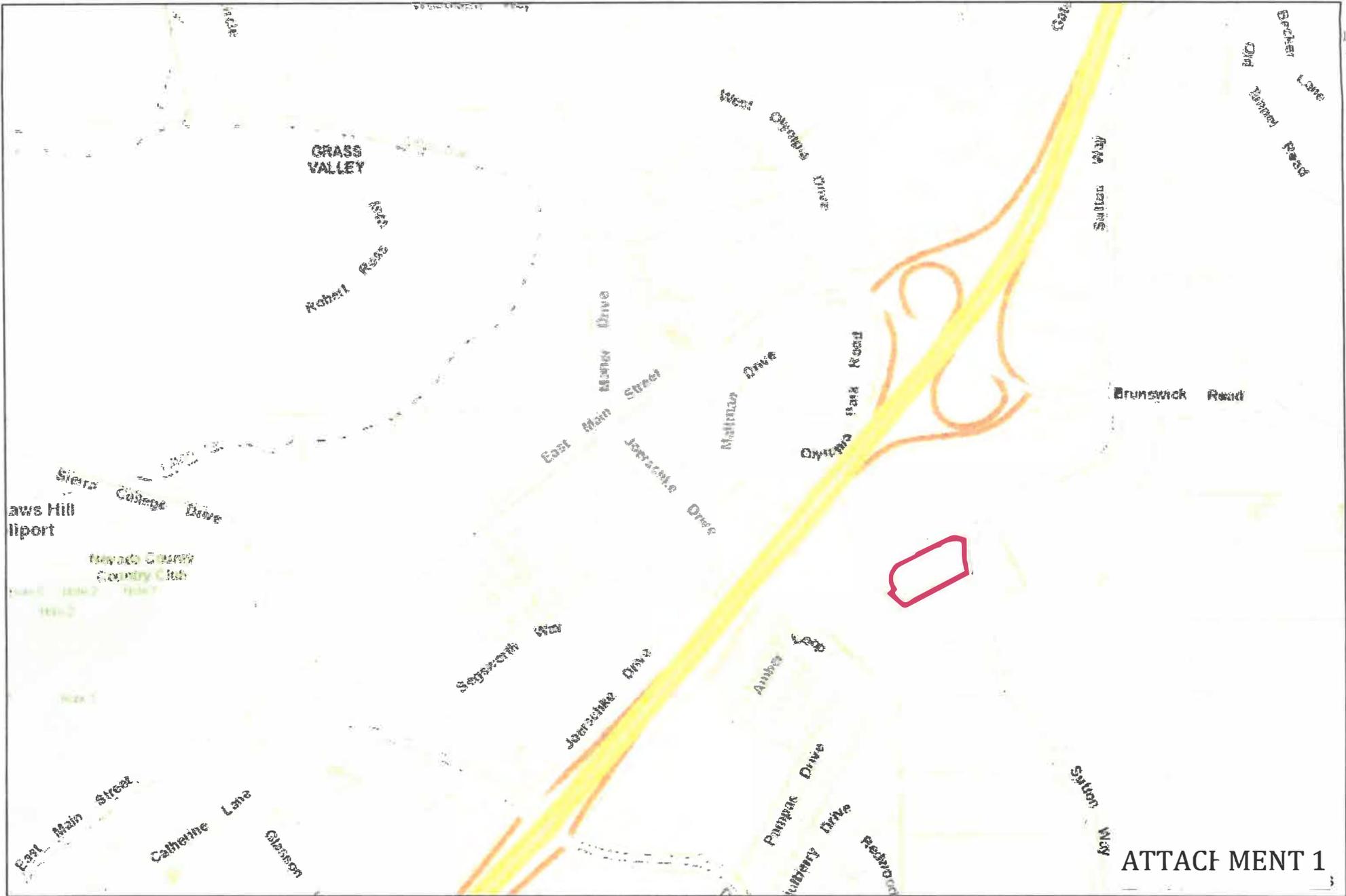
Attachment 2 – Aerial Photograph

Attachment 3 – Applicant's Use Permit Amendment Request



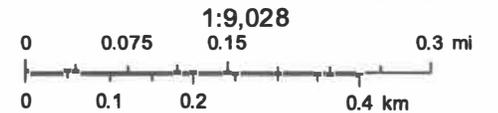
ATTACHMENTS

464 Sutton Way



ATTACHMENT 1

September 18, 2020

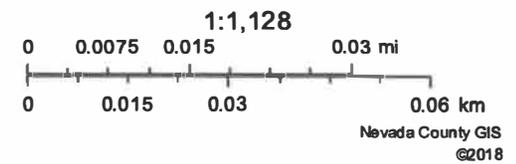


464 Sutton Way



ATTACHMENT 2

September 18, 2020



1849 BREWING COMPANY

ADDENDUM

PROJECT DESCRIPTION: 1849 Brewing Company is requesting that the city of Grass Valley allow us to extend our hours of operation.

In 2017, 1849 Brewing Company was granted a use permit for our brewery and since that time many things have transpired that changed our business plan and has created the need to increase our hours of operation.

The first major difference was to hire a world renown brewer, Jennifer Talley to be our Director of Brewing Operations and a 20% shareholder in our business. Jennifer, a Grass Valley resident, is an award winning brewer with numerous gold medals awarded to her for her brewing excellence. She is a current member of the National Brewers Association's Board of Directors and is a published author of books on beer brewing.

The next major difference in our plan was to not only have wood fired pizza as our main food but to expand our restaurant to include a more well rounded pub menu which has attracted a growing clientele and has created the desire to serve this patron base not just during dinner hours but lunchtime and especially late night.

We are currently the only late night restaurant open and many people come in to get some food after the other establishments have closed.

The last difference in our plan was that because we made the decision to get a type 75 license instead of the more traditional type 23 license we are not allowed to self distribute our beers to the retail sellers; bars, restaurants, etc. We were in negotiations with major distributors when Covid hit and have not been able to sign on with them as they have seen a major impact on their sales and are not willing to add new clients at this time.

Therefore, we need the longer hours of operation to not only serve the growing demand for our food and beverages but to at least pay the bills in hopes that we can begin distributing our beers throughout the region in the not too distant future.

Therefore, we are requesting that you the Planning Commission of the city of Grass Valley allow us to extend our hours of operation from the current hours to these: 11:00 am to 2:00am.

As we have grown from our initial start-up we have experienced some growing pains and as of recent time these pains have become evident to our city. We have been working with both the police department and your staff to mitigate the issues which have occurred to date.

First off I want to apologize for our violations of your noise ordinance as we were under the understanding that 55db noise was acceptable at our property line. We have monitored the noise levels numerous times and have never exceeded this noise limit after 10 pm.

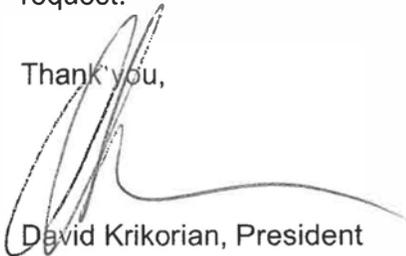
Unfortunately, we were unaware of the nuisance ordinance which supersedes this allowable noise level; once this issue was brought to our attention we complied with this ordinance. We have closed our extended beer garden at 10pm every night and are not having amplified music past this hour on Friday and Saturday nights.

We have a security guard every night from 9:30 pm to 2:30 am and his job is to monitor the parking lot and mitigate any altercations that may arise. He is also responsible for checking ID's at the main entrance and also to deny access to any patrons coming into our establishment that are clearly intoxicated. We have instituted a no one under 21 rule after 10 pm unless they are accompanied by a parent.

All of our front of the house employees will or have taken and passed the serve safe alcohol training course.

We are truly in need of this amendment to our current permit and hope that you will grant us this request.

Thank you,

A handwritten signature in black ink, appearing to read 'David Krikorian', with a long horizontal flourish extending to the right.

David Krikorian, President
1849 Brewing Company



Agenda Item: 7.2
Prepared by: Thomas Last, Community Development Director *JL*

DATA SUMMARY

Application Number: 20PLN-30
Subject:
Location/ APN: Applies City-wide
Applicant: City of Grass Valley
Zoning/General Plan: Amendment applies to all Heavy Commercial (C-3) and Light Industrial (M-1) Zoning Districts and the Commercial (C) and Manufacturing/Industrial General Plan designations
Environmental Status: Exempt pursuant to Section 15378 since the action is not considered a project.

RECOMMENDATION:

Staff recommends the Planning Commission recommend the City Council approve the attached ordinance which amends the Grass Valley Municipal Code and Development Code subject to the Findings included in the staff report.

BACKGROUND:

Currently, the City does not allow any cannabis-related businesses to operate in the City limits. The City Council has discussed the possibility of allowing certain businesses for several years and formed a Council subcommittee in 2016 to explore this topic. On May 12, 2020, the City Council initiated an amendment to the Municipal Code and Development Code to consider the allowance of certain cannabis businesses. The Council's action also directed staff to prepare an ordinance to regulate the number, type and operating standards for the businesses and directed the City Attorney to prepare a ballot measure to add a tax for these uses. See the Council Report in Attachment 2 for more details. That report includes some rough maps that show the limited locations where these businesses could operate, which is based on distance standards from residential and school uses.

PROJECT DESCRIPTION:

Staff prepared an ordinance based on direction provided by the City Council. Attachment 1 includes the draft ordinance that:

- 1) Repeals and replaces Chapter 5.60 of the Municipal Code. This would eliminate the regulations that preclude mobile medical marijuana dispensaries and replace it with a new section that regulates certain cannabis businesses in the City.

2) Repeals Section 17.20.035 of the Development Code. This would eliminate the section that prohibits Medical Marijuana Cooperatives.

3) Amends Table 2-10 of Section 17.24.030 of the Development Code. This adds cannabis businesses as permitted uses in the C-3 and M-1 Zoning Districts. A summary of the more significant sections in the draft include:

5.60.040 prohibits outdoor cultivation

5.60.050 regulates business operations, including the distance requirements from schools and residential areas

5.60.070 allows 1 retail dispensary business per 7,500 residents with a maximum of 2 in the City, and 1 delivery-only dispensary per 6,500 residents with a maximum of 3

5.60.080 allows 2 cannabis testing laboratories

5.60.090 allows up to 10 cannabis manufacturing businesses

5.60.100 allows 2 cannabis nurseries

5.60.110 allows 5 cannabis distribution businesses

Table 2-10 allows the above businesses as permitted uses in the C-3 and M-1 zones

SITE DESCRIPTION AND ENVIRONMENTAL SETTING:

If the ordinance is adopted, these code amendments will apply to all C-3 and M-1 properties in the City.

ENVIRONMENTAL DETERMINATION:

The proposed amendment to the Development Code is not a project within the meaning of Section 15378 of the California Environmental Quality Act Guidelines by virtue of Business and Professions Code Section 26055 (h).

GENERAL PLAN AND ZONING:

General Plan: The City's Commercial and Manufacturing/Industrial land use designations accommodate a variety of retail commercial and service uses and light manufacturing uses. There are no specific policies that discuss cannabis, but there are broad statements in the General Plan to ensure land use activities are compatible and do not significantly impact other land uses. The proposed ordinance does include provisions in section **5.60.050** that attempt to reduce any land use conflicts (i.e. no cannabis business can be located within 600 feet from a school or 500 feet from a residential use).

Zoning: The C-3 and M-1 zoning districts allow for the full range of retail and light industrial uses, either as permitted or in some instances with a Use Permit or Minor Use Permit. As proposed, all the cannabis businesses are allowed by right, subject to the proposed operation standards. When considering a code amendment, the Planning Commission and Council must make findings that the proposed amendment is consistent with the General Plan, would not be detrimental to the public interest, health, safety, convenience, or welfare of the City, and be internally consistent with the other applicable

sections of the Development Code. As it pertains to the Development Code, the only changes are to repeal the section that prohibits medical marijuana cooperatives and to add Cannabis business to the Use Table. All the other regulatory tools for these uses are proposed to be in another section in the Municipal Code.

In 2016 the voters in California approved the use of recreational marijuana in the state. Therefore, cannabis businesses are a new use that can be allowed in communities. These uses are also very regulated by multiple state agencies. Many California communities are weighing the options to allow or prohibit cannabis businesses. Though there are various and opposing opinions and science on the health issues associated with cannabis use, the voters in California have approved it for recreational use. Therefore, the decision to allow these uses are an individual community policy issue. Each community needs to weigh the public benefit for allowing this use, and if allowed needs to establish its own regulatory framework. As noted above, the City Council has directed staff to prepare this draft ordinance which includes measures intended to protect the public.

FINDINGS:

1. The Grass Valley Planning Commission reviewed application 20PLN-30 at its meeting on October 20, 2020.
2. The project is exempt from environmental review pursuant to Section 15378 of the California Environmental Quality Act (CEQA) Guidelines.
3. The proposed amendment is consistent with the Grass Valley General Plan.
4. The proposed amendment is consistent with the Grass Valley Development Code.
5. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Attachments:

1. Draft Ordinance
2. May 12, 2020 City Council Report

Attachment 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY REPEALING AND REPLACING CHAPTER 5.60, REPEALING SECTION 17.20.035 OF CHAPTER 17.20, AND AMENDING TABLE 2-10 OF SECTION 17.24.030 OF CHAPTER 17.24 OF THE MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS ACTIVITIES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GRASS VALLEY:

SECTION I. CODE AMENDMENT. Chapter 5.60 of Title 5 of the Grass Valley Municipal Code is repealed in its entirety and a new Chapter 5.60 is adopted to read as follows:

5.60.010 - Definitions.

“Adult-use cannabis” means cannabis or cannabis products intended to be sold for use by adults 21 years of age or older who do not possess physician’s recommendation for the use of cannabis issued in accordance with the Compassionate Use Act of 1996 (California Health and Safety Code, § 11362.5).

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. “Cannabis” also has the definition provided by Business and Professions Code section 26001, subdivision (f), Health and Safety Code section 11018, and by other state law.

“Cannabis accessory” means any device intended to aid in the use of cannabis or cannabis products which does not itself consist in all or part of cannabis or cannabis products and includes, without limitation, “cannabis accessories” as defined in Health and Safety Code section 11018.2 and by other state law.

“Cannabis business” means any business and its premises for which adult-use, commercial cannabis activity is allowed pursuant to State law and a permit issued under this chapter.

“Cannabis product” means any product containing cannabis or its derivatives, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and products described in Section 11018.1 of the Health and Safety Code.

“Commercial cannabis activity” means any or all of cultivation, possession, manufacture, distribution, processing, storing, testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products for any form of consideration and excluding uncompensated personal use.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the transfer for any form of compensation of cannabis or cannabis products to a customer or caregiver at a location that is not a dispensary.

“Director” means the director of community development or his or her designee or any other person authorized by the city manager to administer this chapter.

“Dispensary” means a place at which cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including, without limitation, a dispensary that engages in delivery. A business which retails cannabis accessories, but not cannabis or cannabis products is not a dispensary.

“Distributor” means a person engaged in procuring cannabis and/or cannabis products for sale to a dispensary or other point of retail sale. “Distribution” means engaging in that conduct and a “distribution facility” is any real estate, whether or not improved, used in such conduct.

“Manufacture” means to produce, prepare, propagate, compound blend, extract, or infuse cannabis or cannabis products either directly or indirectly or by extraction methods, or by means of chemical synthesis, or by a combination of extraction and chemical synthesis or otherwise to make or to prepare a cannabis product. A “manufacturer” means one who engages in the manufacture of cannabis or cannabis products.

“Nursery” means a business that or person who produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

“Person” means any individual, firm, partnership, corporation, company, association, joint stock association; city, county, state, or district; and includes any trustee, receiver, assignee, or other similar representative thereof.

“Premises” means the designated structure or structures and land specified in an application for a permit under this chapter that is owned, leased, or otherwise under the control of an applicant or permit holder on which commercial cannabis activity will be or is conducted. Premises shall be a contiguous area and shall only be occupied by one permit holder.

“Testing laboratory” means a laboratory, facility, entity that or person who offers to or does test cannabis or cannabis products and that is both of the following:

- A. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
- B. Licensed by the Bureau of Cannabis Control within the State Department of Consumer Affairs.

5.60.020 - Smoking or consumption of cannabis prohibited in public places.

No person may smoke or ingest cannabis or cannabis products in any public place or in any location where tobacco smoking is prohibited.

5.60.030 - Prohibited cannabis activities.

Except as specifically allowed by this chapter, all commercial cannabis activity is prohibited in the city, regardless of any licenses issued under State law.

5.60.040 - Cannabis cultivation.

- A. Any person 21 years of age or older may cultivate cannabis indoors for personal use, in accordance with State law, inside a private residence or an accessory structure on the grounds of a private residence.
- B. No person may cultivate cannabis outdoors in the city. No conditional use permit, building permit, variance, or any other permit or entitlement, whether ministerial or discretionary, shall be approved or issued for any such use or activity.

5.60.050 - Cannabis business regulations.

Each cannabis business shall comply with the following requirements, in addition to any other requirements placed on cannabis businesses by this chapter:

- A. Cannabis businesses shall have a site security plan approved by the director.
- B. Other than those of a dispensary, cannabis business premises shall not be open to the public and no persons shall be allowed on such premises except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and State-licensed cannabis distributors.
- C. Each cannabis business shall display a valid local permit issued under this chapter in a conspicuous place readily visible by all persons entering the premises during regular business hours.
- D. No person shall conduct any retail sales of any good or services on or from the premises of a cannabis business, except for a dispensary operating under section 5.60.070 of this chapter and holding a Type 10 – Retailer license from the State.
- E. No person under 21 years of age shall be on the premises of a cannabis business or operate a cannabis business in any capacity, including, but not limited to, as an owner, manager, staff, employee, contractor, or volunteer.
- F. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 50 feet of, the premises of a cannabis business and no person shall possess, consume, or store any alcoholic beverage on the premises of a cannabis business.
- G. Cannabis or cannabis products on the premises of a cannabis business shall not be visible from a public right-of-way, unsecured areas surrounding the premises, or the cannabis business's main entrance and lobby.
- H. No permit shall be issued under this chapter for commercial cannabis activity proposed within 500 feet of any residential use or within 600 feet of any school providing instruction in kindergarten or grades 1 through 12, if that use existed when an original application for a permit under this chapter is submitted. For the purposes of this subsection, distance is measured in a straight line from the closest property line of the residential or school use to the closest property line of the premises where the cannabis business is located.

5.60.060 – Regulations of director.

The director may establish any regulations necessary or convenient to administer this chapter and give notice of them either in the manner required for ordinances of the city council or by maintaining them on the City's website. Cannabis businesses shall comply with all such regulations, all other applicable local laws, and all applicable State laws and regulations.

The director shall issue applications and processing guidelines for each type of permit authorized by this chapter. No permit shall be issued before the release of guidelines for that type of permit, and no permit shall be granted absent full compliance with the application and processing requirements established by the director.

5.60.070 - Delivery and dispensaries.

- A. A person may operate a cannabis dispensary or a delivery-only service only if he or she obtains a valid dispensary or delivery-only permit from the city and holds a valid Type 10 – Retailer license from the State.
- B. To the extent such a prohibition is permitted under State law, no person shall engage in delivery of cannabis or cannabis products within the City absent a City-issued permit, regardless of any other license or authorization a person may have to engage in any commercial cannabis activity outside the City.
- C. Permitted dispensaries and delivery-only services shall sell cannabis and cannabis accessories only to persons 21 years of age or older, and who have a valid government-issued identification card proving their age.
- D. No more than the following number of local permits for cannabis dispensaries and cannabis delivery-only services shall be effective at any time:
 - 1. One permit per 7,500 residents of the city, and no more than two permits total, for dispensaries open to the public for retail sales; and
 - 2. One permit per 6,500 residents of the city, and no more than three permits total, for delivery-only services.

5.60.080 - Cannabis testing laboratories.

- A. A person may operate a cannabis testing laboratory only if he or she obtains a valid local cannabis testing laboratory permit from the city and holds a valid Type 8 – Testing Laboratory permit from the State.
- B. Local cannabis testing laboratory permit holders shall comply with these restrictions:
 - 1. Cannabis testing laboratories shall test cannabis only in a fully enclosed building with ventilation as deemed necessary by the city building official.
 - 2. Cannabis testing laboratories shall have no signage indicating the nature of their operations, except as required by applicable law.
 - 3. As required by State law, including without limitation Business and Professions Code Section 26053, subdivision (b), owners and operators of a cannabis testing laboratory are prohibited from owning or operating any other cannabis business or entity, except another cannabis testing

laboratory, and are prohibited from holding any other State or local cannabis license or permit, except for another cannabis testing laboratory license or permit.

- C. No more than two local cannabis testing laboratory permits shall be effective at any time.

5.60.090 - Cannabis manufacturing.

- A. A person may operate a cannabis manufacturing business if he or she obtains a valid local cannabis manufacturing permit from the city and holds a valid Type 6 – Manufacturer license from the State. A cannabis manufacturing business may only operate as a manufacturing and distribution or as a manufacturing-only facility; its permit holders may not hold a local cannabis dispensary or delivery-only permit issued by the city.
- B. Cannabis manufacturing permit holders shall comply with these restrictions:
 - 1. Cannabis manufacturing businesses shall only manufacture cannabis in a fully enclosed building with ventilation as deemed necessary by the city building official.
 - 2. Cannabis manufacturing businesses shall have no signage indicating the nature of their operations, except as required by applicable law.
 - 3. Each cannabis manufacturing business shall be limited to a maximum of 4,000 square feet of area.
- C. No more than 10 local cannabis manufacturing permits shall be effective at any time.

5.60.100 - Cannabis nurseries.

- A. A person may operate a cannabis nursery only if he or she obtains a valid local cannabis nursery permit from the city and holds a valid Type 4 – Cultivation; Nursery license from the State.
- B. Local cannabis nursery permit holders shall be subject to these restrictions:
 - 1. All outdoor cannabis nursery activities shall occur within a secure fence at least six feet in height that fully encloses the nursery and cultivation areas. Any gate through the fence must be locked except during active ingress or egress.
 - 2. Cannabis nurseries shall be sited and operated so as to prevent cannabis odors from being detected beyond the property line of the cannabis business. All structures used for indoor cannabis nursery cultivation shall be equipped and maintained with sufficient ventilation controls to

eliminate nuisance odor emissions from being detected beyond the property line of the cannabis business.

- C. No more than two local cannabis nursery permits shall be effective at any time.

5.60.110 - Cannabis distribution.

- A. A person may operate a cannabis distribution business only if he or she obtains a valid local cannabis distribution permit from the city and holds a valid Type 11 – Distributor license from the State.
- B. No more than five local cannabis distribution permits shall be effective at any time.

5.60.120 - Permit fees.

The city council shall establish by resolution from time to time a schedule of fees for cannabis permit applications, amendments, inspections, renewals and other regulatory services under this chapter. No fee shall be prorated, or refunded upon denial, suspension, or revocation of a permit. Failure to pay applicable fees is grounds for denial or revocation of a permit.

5.60.130 - Limitations on city liability.

The city shall not be liable for issuing, or failing to issue, suspending, revoking or failing to renew, any permit under this chapter or otherwise approving or disapproving the operation of any cannabis business under this chapter.

5.60.140 - Assignment prohibited.

- A. No person shall operate a cannabis business at any place in the city other than that identified by a permit issued under this chapter.
- B. No person shall transfer ownership or control of a permit issued under this chapter, and/or a cannabis business, unless he or she obtains the consent of the director and the proposed transferee submits all required application materials, pays all applicable fees, and satisfies the requirements of this chapter for issuance of a permit.
- C. Any attempt to transfer or any transfer of a permit issued under this chapter in violation of this section is void and the permit shall be deemed forfeited and no longer of any force or effect.

5.60.150 - Violations.

- A. Any person who violates any provision of this chapter is guilty of a misdemeanor punishable under chapter 1.12 of this code. Such violations may also be remedied in any manner permitted by law or in equity including without limitation,

pursuant to chapters 1.13, 1.14, and 1.15 of this code. In addition, any condition caused or permitted to exist in violation of any provision of this chapter is a public nuisance subject to abatement as provided in this code and under State law.

- B. Notwithstanding subdivision A, no conduct protected from criminal liability under State law shall be made criminal by this code. Such conduct is hereby declared to be a public nuisance, and shall be subject to non-criminal remedies, including, but not limited to, those specified in chapters .13, 1.14, and 1.15 of this code.

SECTION 2. CODE AMENDMENT. Section 17.20.035 of Chapter 17.20 of Title 17 of the Grass Valley Municipal Code is hereby repealed in its entirety.

SECTION 3. CODE AMENDMENT. Table 2-10 of Section 17.24.030 of Chapter 17.24 of Title 17 of the Grass Valley Municipal Code is hereby amended to include Cannabis Business as a Permitted Use in the C-3 and M-1 Zones, with Chapter 5.60 cited as the Specific Use Regulations.

SECTION 4. CEQA FINDINGS. This Ordinance is not a project within the meaning of Section 15378 of the CEQA (California Environmental Quality Act) Guidelines by virtue of Business & Professions Code section 26055, subdivision (h). Discretionary decisions pursuant to chapter 5.60 or title 17 of the Grass Valley Municipal Code as amended by this Ordinance shall include any applicable environmental review pursuant to CEQA.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The City Council of the City of Grass Valley declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect 30 days after its adoption under Article VII, § 2 of the Grass Valley City Charter.

SECTION 7. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published once in *The Union*, a newspaper of general circulation printed, published, and circulated within the City.

INTRODUCED and first read at a regular meeting of the City Council on the ____ day of _____ 2020.

FINAL PASSAGE AND ADOPTION by the City Council was at a meeting held on the ____ day of _____ 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

Lisa Swarthout, Mayor

APPROVED AS TO FORM:

ATTEST:

Michael G. Colantuono, City Attorney

Andy Heath, Acting City Clerk

Attachment 2



City of Grass Valley City Council Agenda Action Sheet

Council Meeting Date: May 12, 2020

Date Prepared: May 6, 2020

Prepared by: Thomas Last, Community Development Director

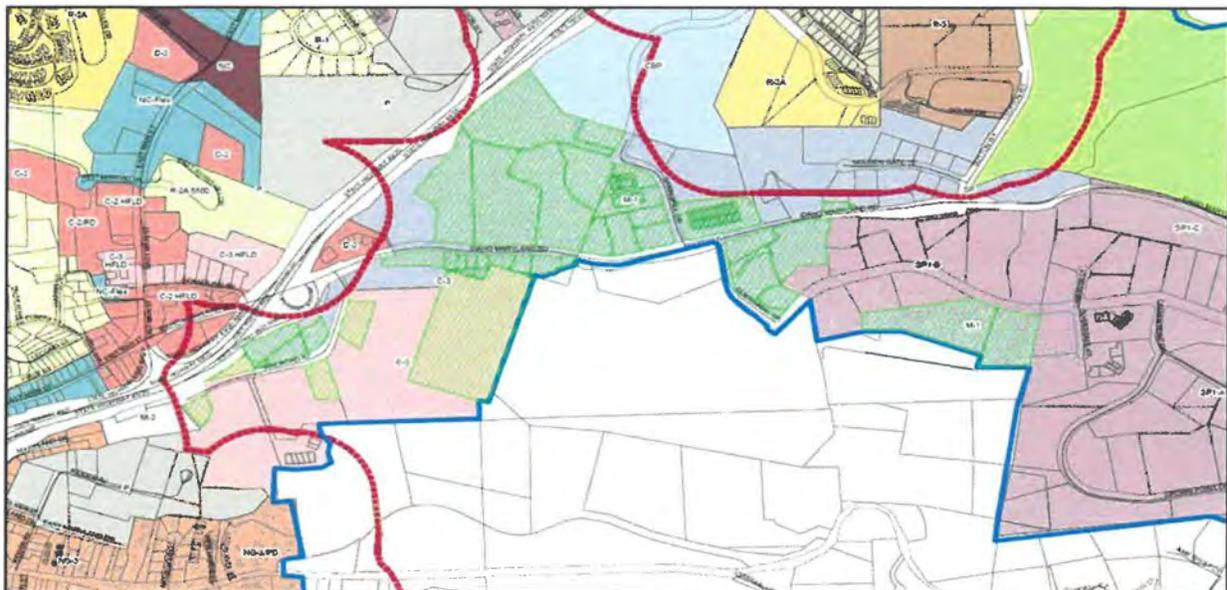
Title: Initiation of an amendment to the Grass Valley Development Code, Title 17, to add a new section related to the allowance of certain cannabis uses and locations, and preparation of a draft tax ballot measure for the next general election.

Recommended Motion: That Council: 1) initiate an amendment to the Development Code; 2) direct staff to prepare an ordinance that regulates the location, number of allowed cannabis businesses based upon City population, and types of cannabis uses as recommended below; and 3) direct the City Attorney to prepare a draft ballot measure to create a taxing mechanism for this use.

Agenda: Administrative

Background Information: In 2016, the City Council formed an Ad Hoc Committee (Howard Levine and Jan Arbuckle) to review the advantages and disadvantages of allowing cannabis-related uses in the City. Once the California voters approved the recreational use in the state, the Committee decided to monitor the issue and determine how the new laws and regulations would affect local agencies. Earlier this year staff (City Manager, Police Chief, and Community Development Director) began working on draft concepts for the Committee to consider. Based on past comments, the Ad Hoc Committee has recommended limiting the number and types of cannabis businesses.

On April 1, 2020, staff sent out an email to the Ad Hoc Committee and previous attendees/members outlining recommendations. Key recommendations included: 1) allowing cannabis businesses in C-3 or M-1 zoning districts; 2) requiring cannabis businesses be located no closer than 500 feet from residential land uses and 600 feet from school (green hatched areas on exhibits below show the C-3 and M-1 zoning areas that meet the distance requirements);

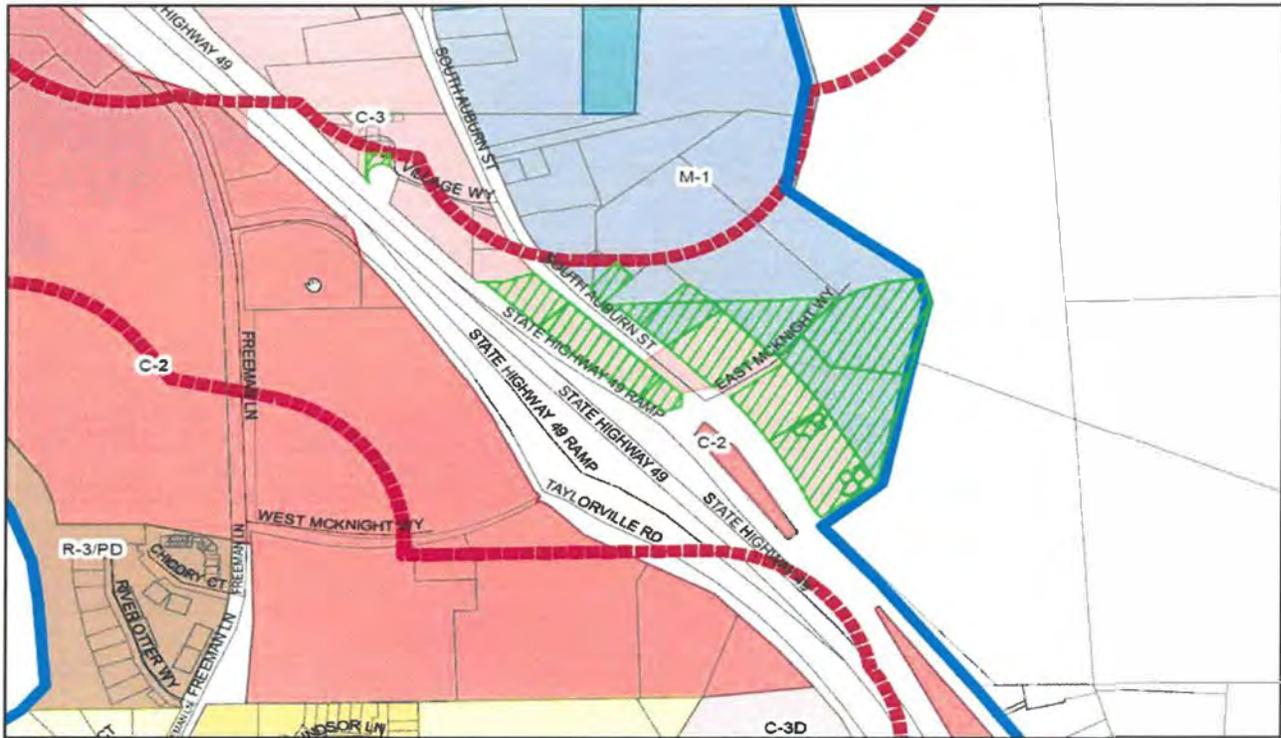


\\COGV-FS\DATA\DATA\WPDATA\!COUNCIL MEETINGS AGENDAS\2020\05.12.2020\Action Sheets\11.
AAS CDD Cannabis Dev Code amend rev..docx

Agenda Item # _____



City of Grass Valley City Council Agenda Action Sheet



3) allowing six types of cannabis businesses (see table); and 4) limiting retail-type cannabis businesses based on total population of the City (see table).

License Type	Number of Cannabis Businesses allowed per Number of Grass Valley Residents	Maximum Cannabis Businesses Allowed (Regardless of Population)
Type 10 – Retail (Dispensary Open to Public)	1 per 7500	2
Type 10 – Retail (Dispensary Delivery Only)	1 per 6500	3
Type 4- Nursey	N/A	2
Type 6 – Manufacturer 1	N/A	10
Type 8 – Testing Laboratory	N/A	2
Type 11 - Distributor	N/A	5



**City of Grass Valley
City Council
Agenda Action Sheet**

The Nevada County Cannabis Alliance submitted a letter requesting a much broader allowance of uses and additional locations. Though staff does not support all the concepts in this letter, some of the issues can be discussed in more detail as the draft ordinance goes through the public hearing process.

Two key items need Council input prior to moving forward with preparation of the draft ordinance. The first item would be the allowed locations, or zoning, for cannabis businesses. The second key item for consideration is setting potential limitations on the quantity of cannabis businesses allowed in the City. Staff is recommending Council move forward with the limitations discussed above (types of businesses, locations, and limits based upon populations).

If authorized, the item will first be reviewed by the Planning Commission then forwarded to the City Council for formal consideration. Also, the City Attorney would be directed to prepare a draft ballot measure to create a taxing mechanism for this uses and staff would recommend it be comparable and/or matching Nevada City’s tax structure.

Council Goals/Objectives: The item executes portions of work tasks towards achieving/maintaining Strategic Plan – Economic Development.

Fiscal Impact: The processing of this application will be funded by the General Fund.

Funds Available: General Fund

Account #: 100-5105

Reviewed by:

____ City Manager

____ Finance Director

Attachments:

- 1. Email to Ad Hoc Committee, with maps showing areas where the uses would be considered
- 2. Letter from Nevada County Cannabis Alliance.